

Assembly Bill No. 1546

Passed the Assembly August 22, 2016

Chief Clerk of the Assembly

Passed the Senate August 16, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 102230 and 103526.5 of, and to add Section 103526.6 to, the Health and Safety Code, relating to vital records, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1546, Olsen. Vital records.

Existing law requires the State Registrar to administer the registration of births, deaths, fetal deaths, and marriages. Existing law requires the State Registrar to arrange and permanently preserve the certificates in a systematic manner and to prepare and maintain a comprehensive and continuous index of all certificates registered. Existing law requires that specified birth, death, and marriage record indices prepared or maintained by local registrars and county recorders be kept confidential. Existing law requires, notwithstanding these provisions, local registrars and county recorders to release, when requested, their comprehensive birth, death, and nonconfidential marriage record indices to the State Registrar.

This bill would additionally authorize the local registrar to release birth and death record indices to the county recorder within its jurisdiction for purposes of the preparation or maintenance of the indices of the county recorder. The bill would extend application of specified access restrictions applicable to confidential portions of certificates of live birth to confidential birth record indices.

Existing law prescribes specified personal information to be included on birth, death, and marriage certificates. Under existing law, a certified copy of a birth or death record may only be supplied by the State Registrar, local registrar, or county recorder to an authorized person, as defined, who submits a statement sworn under penalty of perjury that the applicant is an authorized person. Existing law also requires that each certified copy of a birth, death, or marriage record contain specified information and be printed on sensitized security paper with specified security features, including, among others, intaglio print.

This bill would authorize the State Registrar to suspend the use of any security feature if necessary to enable the State Registrar, local registrar, county recorder, or county clerk to supply an applicant with a certified copy of a birth, death, or marriage record. The bill would authorize the State Department of Public Health to implement this provision through all-county letters or similar instructions, as specified.

Existing law requires the State Registrar to appoint a Vital Records Protection Advisory Committee to study and make recommendations to protect individual privacy, inhibit identity theft, and prevent fraud involving birth, death, and marriage certificates while providing needed access to the information contained in those records by persons seeking it for a legitimate purpose.

This bill would require the State Registrar, in consultation with the County Records' Association of California and other stakeholders, to study all security features for paper used to print a vital record, or alternative security features that are equal to or better than those that are currently mandated. The bill would require the State Registrar to submit a report to the Legislature, on or before January 1, 2018, that contains the findings of that study and legislative recommendations pertaining to those findings.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 102230 of the Health and Safety Code is amended to read:

102230. (a) (1) The State Registrar shall arrange and permanently preserve the certificates in a systematic manner and shall prepare and maintain comprehensive and continuous indices of all certificates registered.

(2) The birth, death, and marriage record indices prepared pursuant to paragraph (1) and all comprehensive birth, death, and marriage record indices prepared or maintained by local registrars and county recorders shall be kept confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(3) Notwithstanding paragraph (2), the State Registrar, at his or her discretion, may release comprehensive birth, death, and nonconfidential marriage record indices to a government agency. The comprehensive birth record indices released to the county recorder shall be subject to the same restrictions applicable to the confidential portion of a certificate of live birth, as specified in Section 102430. Local registrars and county recorders, when requested, shall release their comprehensive birth, death, and marriage record indices to the State Registrar. Local registrars may release their comprehensive birth and death record indices to the county recorder within its jurisdiction for purposes of the preparation or maintenance of the indices of the county recorder. A government agency that obtains indices pursuant to this paragraph shall not sell or release the index or a portion of its contents to another person, except as necessary for official government business, and shall not post the indices or any portion of the indices on the Internet.

(b) (1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth, death, and nonconfidential marriage records for public release.

(2) For purposes of this section, noncomprehensive birth record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, and place of birth.

(3) For purposes of this section, noncomprehensive death record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, place of birth, place of death, date of death, and father's last name.

(4) For purposes of this section, noncomprehensive nonconfidential marriage record indices for public release shall be comprised of the name of each party to the marriage and the date of marriage.

(5) Requesters of the birth, death, or nonconfidential marriage record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) The proposed use of the birth, death, or nonconfidential marriage record indices.

(B) A disclaimer crediting analyses, interpretations, or conclusions reached regarding the birth, death, or nonconfidential

marriage record indices to the author and not to the State Department of Public Health.

(C) Assurance that technical descriptions of the birth, death, or nonconfidential marriage record indices are consistent with those provided by the State Department of Public Health.

(D) Assurance that the requester shall not sell, assign, or otherwise transfer the birth, death, or nonconfidential marriage record indices.

(E) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(6) Birth, death, and nonconfidential marriage record indices obtained pursuant to this subdivision, and any portion thereof, shall not be used for fraudulent purposes.

(c) (1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth, death, and nonconfidential marriage records for purposes of law enforcement or preventing fraud.

(2) For purposes of this section, noncomprehensive birth record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, sex, date of birth, place of birth, and mother's maiden name.

(3) For purposes of this section, noncomprehensive death record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, place of death, mother's maiden name, sex, social security number, date of birth, place of birth, date of death, and father's last name.

(4) For purposes of this section, noncomprehensive nonconfidential marriage record indices for the purpose of preventing fraud shall be comprised of the name of each party to the marriage and the date of marriage.

(5) The birth, death, and nonconfidential marriage record indices prepared pursuant to this subdivision shall be made available to financial institutions, as defined in Section 6827(4)(A) and (B) of Title 15 of the United States Code, its representatives or contractors, consumer credit reporting agencies, as defined in subdivision (d) of Section 1785.3 of the Civil Code, its representatives or contractors, those entities providing information services for purposes of law enforcement or preventing fraud, officers of the court for the sole purpose of verifying a death, and

to persons or entities acting on behalf of law enforcement agencies or the court, or pursuant to a court order.

(6) The birth, death, and nonconfidential marriage record indices prepared pursuant to this subdivision may be released to a government agency.

(7) Requesters of the birth, death, or nonconfidential marriage record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) An agreement not to release or allow public access to the birth, death, or nonconfidential marriage record indices, and an agreement not to post the indices on the Internet, except as permitted by this subdivision.

(B) The proposed use of the birth, death, or nonconfidential marriage record indices.

(C) The names of all persons within the organization, if applicable, who will have access to the birth, death, or nonconfidential marriage record indices.

(D) A disclaimer crediting analyses, interpretations, or conclusions reached regarding the birth, death, or nonconfidential marriage record indices to the author and not to the State Department of Public Health.

(E) Assurance that technical descriptions of the birth, death, or nonconfidential marriage record indices are consistent with those provided by the State Department of Public Health.

(F) Assurance that the requester shall not sell, assign, or otherwise transfer the birth, death, or nonconfidential marriage record indices, except as permitted by this subdivision.

(G) Assurance that the requester shall not use the birth, death, or nonconfidential marriage record indices for fraudulent purposes.

(8) (A) Birth, death, and nonconfidential marriage record indices, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the Internet.

(B) Notwithstanding subparagraph (A), individual information contained in birth, death, and nonconfidential marriage record indices may be posted on the Internet if all of the following requirements are met:

(i) The individual information is posted on an Internet Web site that is protected by a password.

(ii) The individual information is posted on an Internet Web site that is available to subscribers only for a fee.

(iii) The individual information is not posted for public display.

(iv) The individual information is available to subscribers pursuant to a contractual agreement.

(v) The individual information is posted for purposes of law enforcement or preventing fraud.

(d) Mail-in requests from nongovernmental agencies for birth, death, and nonconfidential marriage record indices requested pursuant to subdivisions (b) and (c) shall include a notarized statement attesting to the identity of the requester.

(e) Noncomprehensive birth, death, and nonconfidential marriage record indices pursuant to subdivisions (b) and (c) shall be updated annually.

(f) Birth, death, and nonconfidential marriage record indices provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) Noncomprehensive birth, death, and nonconfidential marriage record indices created by local registrars or county recorders shall be subject to the conditions for release required by this section.

(h) A person or entity that obtains a birth, death, or nonconfidential marriage record index, or any portion thereof, from a requester who has obtained the index in accordance with paragraph (7) of subdivision (c) shall not sell, assign, or otherwise transfer that index, or any portion thereof, to a third party.

(i) Paragraphs (2) and (3) of subdivision (a) and subdivisions (b) to (h), inclusive, shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 2. Section 103526.5 of the Health and Safety Code is amended to read:

103526.5. (a) Each certified copy of a birth, death, or marriage record issued pursuant to Section 103525 shall include the date issued, the name of the issuing officer, the signature of the issuing officer, whether that is the State Registrar, local registrar, county recorder, or county clerk, or an authorized facsimile thereof, and the seal of the issuing office.

(b) All certified copies of birth, death, and marriage records issued pursuant to Section 103525 shall be printed on chemically sensitized security paper that measures 8 ½ inches by 11 inches and that has the following features:

- (1) Intaglio print.
- (2) Latent image.
- (3) Fluorescent, consecutive numbering with matching barcode.
- (4) Microprint line.
- (5) Prismatic printing.
- (6) Watermark.
- (7) Void pantograph.
- (8) Fluorescent security threads.
- (9) Fluorescent fibers.
- (10) Any other security features deemed necessary by the State Registrar.

(c) (1) The State Registrar may suspend the use of any security feature described in subdivision (b) if necessary to enable the State Registrar, local registrar, county recorder, or county clerk to supply an applicant with a certified copy of a birth, death, or marriage record issued pursuant to Section 103525.

(2) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this subdivision through all-county letters or similar instructions from the State Registrar without taking regulatory action.

(d) The State Registrar, local registrars, county recorders, and county clerks shall take precautions to ensure that uniform and consistent standards are used statewide to safeguard the security paper described in subdivision (b), including, but not limited to, the following measures:

- (1) Security paper shall be maintained under secure conditions so as not to be accessible to the public.
- (2) A log shall be kept of all visitors allowed in the area where security paper is stored.
- (3) All spoilage shall be accounted for and subsequently destroyed by shredding on the premises.

SEC. 3. Section 103526.6 is added to the Health and Safety Code, to read:

103526.6. (a) The State Registrar, in consultation with the County Records' Association of California and other stakeholders, shall study all security features for paper used to print a vital record pursuant to Section 103525, or alternative security features that are equal to or better than those that are currently mandated.

(b) (1) On or before January 1, 2018, the State Registrar shall submit to the Legislature a report that contains the findings of the study conducted pursuant to subdivision (a) and legislative recommendations pertaining to those findings.

(2) A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the State Registrar to allow individuals access to their vital records and to conduct a study regarding all security features for paper used to print a vital record, or alternative security features that are equal to or better than those that are currently mandated, as soon as possible, and to ensure timely reporting of the findings of that study to the Legislature, it is necessary that this act take effect immediately.

Approved _____, 2016

Governor